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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,461	11/28/2001	Howard B. Sosin	2002832-0016	2420

7590

03/10/2005

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EXAMINER

LEGESSE, NINI F

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SN

Office Action Summary	Application No.	Applicant(s)	
	09/996,461	SOSIN, HOWARD B.	
	Examiner	Art Unit	
	Nini F. Legesse	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24 and 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's response to the last office action is acknowledged on 11/19/04.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-24 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,514,446 (US Patent No. 6,514,446).

With regards to claims 20, 26, and 31, Smith discloses a substrate and a plurality of fibers wherein the fibers comprise a polymer that is capable of reversibly changing color (see column 1 lines 56-65). It is noted that since it is stated that the polymer fiber could be used for carpet, the underlining of the carpet is considered as a substrate and the top surface of the carpet is the fiber part. Smith fails to explicitly state if the fiber polymers respond to an elastic elongation by changing from a relaxed color to an elongated color. Smith has stated in column 4 lines 23-24 that temperature change is one reason for the change of color. When the foot or when an element is dragged on the carpet impacts Smith's carpet, it would be obvious that some fibers will be stretched and the process of the impact would create some heat. Thus it would be obvious that the change of temperature due to the impact or the drag of an element on the Smith carpet would provide change of color.

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With regards to claims 21-23, Smith does not disclose expressly if the fibers comprise or compose poly (diacetylene). At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use poly (diacetylene) because Applicant has not disclosed that the use of poly (diacetylene) provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either any of Smith's multiple examples of a thermochromic compositions because many different types of thermochromic composition perform the same function of reversibly changing color of elements with temperature. Therefore, it would have been an obvious matter of design choice to modify Smith's reference to obtain the invention as specified in claims 21-23.

With regards to claim 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have an indicia on a carper since it was known in the art that different designs on a carpet would make it more attractive.

With regards to claim 27, the fibers of the Smith device includes a chromogen that is not coated on the surface of the fiber because column 4 lines 15+ indicates that the polymer is a matrix of a colorant, dye of a pigment.

With regards to claims 28 and 30, for the reasons discussed in claims 20, 26, and 27 above, the chromogen is considered as being a stress Chromic.

With regards to claim 29, since the polymer matrix fiber of Smith responds to temperature change it is considered to be a thermochromic.

Response to Arguments

Applicant's arguments with respect to the claim 20-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9:30 AM - 6:30 PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NFL

03/07/05


GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700